

07 Capital gains tax

CHAPTER 07

OVERVIEW

For the 2009–10 income year:

- net capital gains were reported by 541,898 individuals, 15,174 companies and 61,191 funds
- net capital gains totalled \$20.3 billion, a 13.6% decrease from 2008–09
- capital gains tax (CGT) payable on the net capital gains of taxable individuals, companies and funds was estimated to be \$5.1 billion, a 15.1% decrease from 2008–09
- 366,954 taxable individuals, companies and funds declared \$50.5 billion in total current year capital gains on their CGT schedules, a 25.4% increase from 2008–09
- approximately 59.9% (\$30.2 billion) of total current year capital gains were sourced from share transactions
- 19,755 individuals and 2,566 companies claimed small business CGT concessions worth \$2.0 and \$0.7 billion respectively, a 1.8% increase and 11.9% decrease from 2008–09.

INTRODUCTION

This chapter provides CGT information on individuals, companies and funds, as reported on their tax returns and CGT schedules. CGT is the tax payable on any net capital gain included with other assessable income on an entity's (individual, company or fund) tax return. Respective rates of tax then apply to a net capital gain.

A capital gain or loss may arise if a CGT event happens, with the most common CGT event being the sale of an asset. Some typical assets are:

- land
- shares
- units in a unit trust or managed investment fund
- collectables that cost over \$500 (for example, jewellery)
- personal use assets that cost over \$10,000.

A net capital gain is the total of capital gains made by a taxpayer for an income year, reduced by:

- the taxpayer's total capital losses for the income year and any net capital losses from previous years
- any CGT discount or small business CGT concessions the taxpayer is entitled to.

If total capital gains are less than total capital losses for an income year, the taxpayer has a net capital loss for that income year. This loss cannot be deducted from assessable income; it can be used only to reduce capital gains in subsequent income years.

NEW FEATURES AND INFORMATION

Statistics for the 2009–10 income year reported in this chapter may have been affected by:

- changes to the tax treatment of employee share schemes
- some changes to the tax treatment of same-sex couples.

NET CAPITAL GAINS

In the 2009–10 income year, the number of entities reporting net capital gains increased by 4.2% while the value of reported net capital gains decreased by 13.6%. Funds recorded the largest increase in net capital gains with a rise of 37.5% or \$0.6 billion. Companies recorded a fall in their net capital gain amounts of 37.8% or \$4.4 billion.

Table 7.1 Taxpayers with net capital gains, by entity type, 2008–09 and 2009–10 income years

Entity	No.	2008–09 ¹ \$m	No.	2009–10 ¹ \$m
Individual				
Taxable ²	405,451	9,680	425,369	10,349
Non-taxable	112,883	709	116,529	630
Individual total³	518,334	10,389	541,898	10,979
Company				
Taxable ²	8,889	9,897	9,190	6,047
Non-taxable	5,854	1,636	5,984	1,121
Company total³	14,743	11,533	15,174	7,169
Fund				
Taxable ²	33,929	966	34,756	1,284
Non-taxable	26,298	601	26,435	872
Fund total³	60,227	1,567	61,191	2,156
Total³	593,304	23,490	618,263	20,303

1 Data for the 2008–09 and 2009–10 income years includes data processed up to 31 October 2010 and 31 October 2011 respectively.

2 Taxpayers with net tax greater than \$0.

3 Totals may differ from the sum of components due to rounding.

TAX PAYABLE ON NET CAPITAL GAINS

Australia does not have a separate capital gains tax system. A net capital gain is added to the taxpayer's other assessable income and taxed at the applicable tax rates for that taxpayer.

The tax on capital gains reported in this chapter is an estimate of the tax that is required to be paid, based on using an average tax rate approach.

Box 7.1 Calculating tax on net capital gains

Tax on capital gains is calculated as:

	Net tax ¹
divided by	Taxable income
<i>gives</i>	<i>Average tax rate²</i>
multiplied by	Net capital gain
<i>gives</i>	<i>Tax on net capital gains</i>

1 Net tax as defined in boxes 2.1, 3.2 and 4.2 for individuals, companies and super funds respectively. Only for entities with net tax greater than \$0 is tax on capital gains calculated.

2 This part of the calculation cannot result in an amount that is less than \$0.

For the 2009–10 income year, an estimated \$5.1 billion in CGT was payable by taxable entities on net capital gains totalling \$17.7 billion. Taxable individuals accounted for 63.5% of tax on 58.5% of net capital gains, while taxable companies accounted for 33.6% of tax on 34.2% of net capital gains, and taxable funds accounted for 2.9% of tax on 7.3% of net capital gains.

When comparing taxable entities with net capital gains to the total population for each entity type, only 3.4% of individuals, 1.2% of companies and 9.2% of funds were taxable and had a net capital gain for 2009–10.

Table 7.2 Tax payable on capital gains, by entity type, 2009–10 income year

Entity type	All taxpayers No.	Taxable taxpayers with net capital gain ¹ No.	Net capital gains \$m	Tax on net capital gains ² \$m
Individual	12,380,031	425,369	10,349	3,208
Company	777,207	9,190	6,047	1,699
Fund	377,693	34,756	1,284	148
Total³	13,534,931	469,315	17,680	5,055

1 Taxpayers with net tax greater than \$0.

2 The tax payable on net capital gains is estimated (based on entity type and tax rates).

3 Totals may differ from the sum of components due to rounding.

Among taxable individuals with net capital gains for 2009–10, only 8.3% had a taxable income of \$180,001 or more, yet they accounted for 45.6% of net capital gains and 60.8% of the tax on net capital gains.

Table 7.3 Net capital gains and CGT of taxable individuals, by taxable income, 2009–10 income year

Taxable income	Taxpayers ¹ No.	Net capital gains \$m	Tax on net capital gains ² \$m
\$6,000 or less	942	4	2
\$6,001–\$35,000	83,546	685	49
\$35,001–\$80,000	188,220	2,060	390
\$80,001–\$180,000	117,185	2,877	817
\$180,001 or more	35,476	4,722	1,951
Total³	425,369	10,349	3,208

1 Refers to individual taxpayers with net tax payable greater than \$0.

2 The tax payable on net capital gains is estimated (based on entity type and tax rates).

3 Totals may differ from the sum of the components due to rounding.

Box 7.2 Entity size, by total income

For the purposes of this chapter:

Loss/nil entities have a total income equal to or less than \$0.

Micro entities have a total income equal to or more than \$1 but less than \$2 million.

Small entities have a total income equal to or more than \$2 million but less than \$10 million.

Medium entities have a total income equal to or more than \$10 million but less than \$100 million.

Large entities have a total income equal to or more than \$100 million but less than \$250 million.

Very large entities have a total income equal to or more than \$250 million.

Micro companies represented 83.2% of taxable companies with net capital gains for 2009–10, but accounted for only 19.0% of the total net capital gains and were liable for only 18.7% of the total tax payable on net capital gains.

Table 7.4 Net capital gains and CGT of taxable companies¹, by company size, 2009–10 income year

Company size	Companies No.	Net capital gains \$m	Tax on net capital gains ² \$m
Loss/nil	198	79	23
Micro	7,648	1,151	318
Small	867	512	137
Medium	345	1,775	492
Large	46	401	110
Very large	86	2,129	620
Total³	9,190	6,047	1,699

1 Refers to companies with net tax payable greater than \$0.

2 The tax payable on net capital gains is estimated (based on entity type and tax rates).

3 Totals may differ from the sum of the components due to rounding.

As with companies, the majority of taxable funds with net capital gains (99.8%) in 2009–10 were in the micro segment. These funds accounted for 80.9% of total net capital gains and were liable for 82.0% of the total tax payable on net capital gains.

Table 7.5 Net capital gains and CGT of taxable funds¹, by fund size, 2009–10 income year

Fund size	Funds No.	Net capital gains \$m	Tax on net capital gains ² \$m
Loss/nil	0	0	0
Micro	34,681	1,039	121
Small	62	148	19
Medium	11	93	7
Large ³	1	1	..
Very large ³	1	3	..
Total⁴	34,756	1,284	148

1 Refers to funds with net tax payable greater than \$0.

2 The tax payable on net capital gains is estimated (based on entity type and tax rates).

3 '..' means rounded to zero but not zero.

4 Totals may differ from the sum of the components due to rounding.

TOTAL CAPITAL GAINS

Statistics for total capital gains and losses are sourced from the CGT schedules. Only companies and funds with total capital gains of more than \$10,000 are required to complete a schedule. Individuals (including individual partners in a partnership) who lodge a paper return are not required to complete one. Therefore, as not all entities are required to complete a CGT schedule, the following statistics cannot be directly compared to the statistics reported on net capital gains.

For the 2009–10 income year, 366,954 taxable entities (individuals, companies and funds) declared \$50.5 billion in total current year capital gains on their CGT schedules. Entities had to report capital gains from the following sources on the CGT schedule:

- shares and units (in unit trusts)
- real estate
- other CGT assets and other CGT events
- collectables
- forestry managed investment scheme interests
- hedging financial arrangements.

For 2009–10, taxable individuals, companies and funds had approximately 59.9% (\$30.2 billion) of total current year capital gains that were sourced from shares. Real estate accounted for 25.7% (\$13.0 billion) of total current year capital gains and other assets for 14.4% (\$7.3 billion).

The value of total capital gains reported in the CGT schedule by taxable individuals increased by 2.7% with real estate contributing 47.2% of total capital gains.

Table 7.6 Total current year capital gains of taxable individuals¹, by source, 2008–09 and 2009–10 income years

Source of gains ²	2008–09 ³		2009–10 ³	
	No.	\$m	No.	\$m
Shares	159,151	8,702	180,698	7,925
Real estate	105,981	9,574	114,116	10,992
Other assets ⁴	48,484	4,380	44,658	4,362
Collectables	323	21	314	14
Forestry managed investment scheme interest	98	5	95	3
Total⁵	287,604	22,681	314,381	23,296

1 Refers to individual taxpayers with net tax payable greater than \$0 who completed a schedule.

2 Sources include both active and non-active assets.

3 Data for the 2008–09 and 2009–10 income years includes data processed up to 31 October 2010 and 31 October 2011 respectively.

4 Includes other CGT assets and any other CGT events.

5 Components do not add to the total number of taxable individuals claiming total capital gains as individuals may claim capital gains from more than one source. Totals may differ from the sum of the components due to rounding.

The value of total capital gains reported in the CGT schedule by taxable companies decreased by 6.2% in 2009–10. The number of companies with capital gains in shares increased by 10.2% and the value of capital gains from shares increased by 21.5%.

Table 7.7 Total current year capital gains of taxable companies¹, by source, 2008–09 and 2009–10 income years

Source of gains ²	No.	2008–09 ³	No.	2009–10 ³
		\$m		\$m
Shares	4,650	3,934	5,123	4,782
Real estate	1,883	973	2,110	1,578
Other assets ⁴	3,063	3,101	2,797	2,046
Collectables	13	7	16	2
Forestry managed investment scheme interest	9	949	7	2
Total⁵	8,745	8,964	9,267	8,410

1 Refers to company taxpayers with net tax payable greater than \$0 who completed a schedule.

2 Sources include both active and non-active assets.

3 Data for the 2008–09 and 2009–10 income years includes data processed up to 31 October 2010 and 31 October 2011 respectively.

4 Includes other CGT assets and any other CGT events.

5 Components do not add to the total number of taxable companies claiming total capital gains as companies may claim capital gains from more than one source. Totals may differ from the sum of the components due to rounding.

The value of total capital gains reported in the CGT schedule by taxable funds increased by 117.9% in 2009–10, driven by an increase in capital gains from shares of \$10 billion.

Table 7.8 Total current year capital gains of taxable funds¹, by source, 2008–09 and 2009–10 income years

Source of gains ²	No.	2008–09 ³	No.	2009–10 ³
		\$m		\$m
Shares	36,422	7,510	39,536	17,510
Real estate	1,951	320	2,253	405
Other assets ⁴	7,696	782	6,308	857
Collectables	71	4	72	2
Forestry managed investment scheme interest	27	1	32	2
Total⁵	41,004	8,617	43,306	18,775

1 Refers to fund taxpayers with net tax payable greater than \$0 who completed a schedule.

2 Sources include both active and non-active assets.

3 Data for the 2008–09 and 2009–10 income years includes data processed up to 31 October 2010 and 31 October 2011 respectively.

4 Includes other CGT assets and any other CGT events.

5 Components do not add to the total number of taxable funds claiming total capital gains as funds may claim capital gains from more than one source. Totals may differ from the sum of the components due to rounding.

CAPITAL LOSSES

For the 2009–10 income year, 306,120 entities reported current year capital losses of \$45.0 billion. Capital losses applied of \$24.0 billion, including losses from before 2009–10, were used to offset 2009–10 capital gains. In total, funds claimed the most of the capital losses applied – 72.4% (\$17.4 billion).

From 2008–09 to 2009–10, the amount of current year capital losses reported by funds decreased by 44.0%. The number of funds with capital losses applied increased by 13.2% and the amount increased by 59.8%.

Table 7.9 Capital losses, by entity type, 2008–09 and 2009–10 income years

Entity	Current year capital losses		2008–09 ¹ Capital losses applied		Current year capital losses		2009–10 ¹ Capital losses applied	
	No.	\$m	No.	\$m	No.	\$m	No.	\$m
Individual								
Taxable ²	169,483	6,455	134,249	2,706	158,428	3,547	149,068	2,559
Non-taxable	44,956	1,566	32,424	504	46,736	964	39,729	517
Individual total³	214,439	8,020	166,673	3,210	205,164	4,511	188,797	3,075
Company								
Taxable ²	5,583	7,157	4,208	3,582	4,994	4,437	4,438	2,383
Non-taxable	4,848	3,436	2,857	1,323	4,633	7,302	3,175	1,148
Company total³	10,431	10,593	7,065	4,904	9,627	11,738	7,613	3,530
Funds								
Taxable ²	42,265	37,180	28,613	7,151	39,652	24,246	29,083	15,920
Non-taxable	45,688	14,272	34,166	3,714	51,677	4,544	41,960	1,442
Fund total³	87,953	51,452	62,779	10,865	91,329	28,790	71,043	17,362
Total³	312,823	70,065	236,517	18,979	306,120	45,040	267,453	23,968

¹ Data for the 2008–09 and 2009–10 income years includes data processed up to 31 October 2010 and 31 October 2011 respectively, for those entities that completed a schedule.

² Taxable taxpayers are taxpayers with net tax greater than \$0.

³ Totals may differ from the sum of the components due to rounding.

CAPITAL GAINS DISCOUNT

After applying capital losses to total capital gains, individuals and complying super funds are able to claim the general CGT discount for assets they have held for at least 12 months. Individuals get a 50% discount and complying super funds get a 33⅓% discount.

As the general discount is applied to capital gains after applying capital losses, the movement in the number of individuals and super funds using it, and the amount of gains that are concessionaly treated, will generally be in alignment with the movement in total capital gains by these same individuals and super funds.

For the 2009–10 income year, there was an increase of 10.2% in the number of individuals claiming the discount, and an increase of 2.0% in the amount claimed. For funds, there was an increase of 26.5% in the number claiming the discount and an increase in the amount claimed of 16.9%.

Table 7.10 General capital gains tax discount, by entity type, 2008–09 and 2009–10 income years

Entity	No.	2008–09 ¹	No.	2009–10 ¹
		\$m		\$m
Individuals	233,424	10,569	257,164	10,782
Funds	19,839	590	25,097	690
Total	253,263	11,159	282,261	11,472

¹ Data for the 2008–09 and 2009–10 income years includes data processed up to 31 October 2010 and 31 October 2011 respectively, for those entities that completed a schedule.

SMALL BUSINESS CGT CONCESSIONS

Small businesses that meet certain conditions are entitled to various CGT concessions when they sell their small business (or assets from it). Use of these concessions is reported on the CGT schedule.

For the 2009–10 income year, 19,755 individuals claimed small business CGT concessions to the value of \$2.0 billion, an increase of 1.8% from 2008–09. Most individuals claiming these concessions claimed the small business active assets reduction. The small business 15 year exemption was the least claimed concession, but had the highest average amount per claimant of \$366,401.

Table 7.11 Small business capital gains tax concessions, by entity type, 2008–09 and 2009–10 income years

Concession	Individuals		2008–09 ¹ Companies		Individuals		2009–10 ¹ Companies	
	No.	\$m	No.	\$m	No.	\$m	No.	\$m
Small business 15 year exemption	571	199	155	98	656	240	156	87
Small business active asset reduction	17,070	912	2,086	314	17,659	884	1,890	275
Small business retirement exemption	6,982	544	893	235	7,555	561	812	220
Small business rollover	3,366	280	444	111	3,326	286	386	84
Total²	18,905	1,936	2,801	757	19,755	1,971	2,566	667

¹ Data for the 2008–09 and 2009–10 income years includes data processed up to 31 October 2010 and 31 October 2011 respectively, for those entities that completed a schedule.

² Components do not add up to the total number of individuals and companies as individuals and companies may claim more than one small business CGT concession. Totals may differ from the sum of the components due to rounding.

For the individuals' small businesses where the industry classification is known, the financial and insurance services industry had the most claimants for these concessions, followed by the agricultural, forestry and fishing industry.

Table 7.12 Total small business capital gains tax concessions, by industry¹, 2009–10 income year²

	Individuals		Companies	
	No.	\$m	No.	\$m
Agriculture, forestry and fishing	1,765	277	101	56
Mining	17	4	9	3
Manufacturing	198	10	134	41
Electricity, gas, water and waste services	19	1	12	6
Construction	526	31	178	34
Wholesale trade	127	11	152	44
Retail trade	696	87	356	78
Accommodation and food services	472	24	330	51
Transport, postal and warehousing	377	19	143	19
Information media and telecommunications	21	2	16	7
Financial and insurance services	3,460	404	263	78
Rental, hiring and real estate services	724	114	261	124
Professional, scientific and technical services	744	61	202	56
Administrative and support services	322	12	74	14
Public administration and safety	22	1	8	2
Education and training	123	6	24	5
Health care and social assistance	500	49	135	31
Arts and recreation services	134	10	40	5
Other services	542	16	128	13
Other/not stated	4,831	525	0	0
No ANZSIC code	4,135	307	0	0
Total³	19,755	1,971	2,566	667

¹ The industry groups are classified based on the Australian and New Zealand Standard Industrial Classification (ANZSIC) 2006 codes on the Australian Business Register.

² Data for the 2009–10 income year includes data processed up to 31 October 2011, for those entities that completed a schedule.

³ Totals may differ from the sum of the components due to rounding.

SOURCE OF CGT STATISTICS

Statistics in this chapter are sourced from 2009 and 2010 income tax returns for individuals, companies, funds and trusts, and from 2009 and 2010 CGT schedules completed by individual, company and fund taxpayers, processed by 31 October 2010 and 31 October 2011 respectively.

The statistics reported are not necessarily complete as the proportion of tax returns processed by 31 October each year can vary. We recommend that you exercise caution in comparing the statistics for the current year and previous years.

As not all individual, company and fund taxpayers have to complete CGT schedules, the statistics sourced from the schedules do not represent all individual, company and fund taxpayers. Statistics such as total capital gains and losses, therefore, cannot be directly compared to the net capital gains statistics reported in this chapter.

Statistics reported in the detailed tables for companies and funds have been updated for the 1989–90 to 2009–10 income years to include returns processed by 31 October 2011 (where possible). Statistics reported in the detailed tables for individuals have been updated for the 2001–02 to 2009–10 income years to include returns processed by 31 October 2011. These statistics cannot be compared to previous editions of *Taxation statistics*.

A copy of the CGT schedule is in the appendix. You can view or download it in PDF file format from the attached CD-ROM or from the online version of *Taxation statistics* on our website at www.ato.gov.au

CGT CHAPTER TABLES

The CGT chapter tables are now on the attached CD-ROM and included in the online version of this publication on our website. You can now view or download all the chapter tables in Excel.

LIST OF CGT DETAILED TABLES

The following CGT detailed tables are on the attached CD-ROM and included in the online version of this publication on our website. You can view or download all the detailed tables as PDF or Excel files.

Table 1 Net capital gains subject to tax, 1989–90 to 2009–10 income years

This table shows the number of taxable entities with net capital gains, the amount of their net capital gains and the estimated tax payable on these net capital gains (CGT), for income years 1989–90 to 2009–10.

Table 2 Net capital gains subject to tax, by entity type and taxable income, 2009–10 income year

This table shows the number of individual, company and fund taxpayers with capital gains; the total number of individual, company and fund taxpayers (or total number of returns lodged by these entities); the proportion of taxpayers with capital gains to the total number of taxpayers; the net capital gains of these entities and the estimated tax payable (CGT) on these net capital gains. These items are broken down by taxable income.

Table 3 Small business capital gains tax concessions, by entity type, 2000–01 to 2009–10 income years

This table shows the number of individuals and companies that have claimed any of the small business capital gains tax concessions for the income years 2000–01 to 2009–10 inclusive.

Table 4 Net capital gains, by entity type, by range of net capital gain, 1996–97 to 2009–10 income years

This table shows the number of individuals, companies and funds that had a net capital gain, broken down by the size of their net capital gain for the income years 1996–97 to 2009–10 inclusive.

Table 5 Net capital gains, by age, sex, taxable status and taxable income of individuals, 2009–10 income year

This table shows the number of individuals and the net capital gains, broken down by the age, sex, taxable status and taxable income of individuals for the income year 2009–10.

Table 6 Capital gains and small business concessions by calculation method, together with capital losses applied, by entity type for the 2000–01 to 2009–10 income years

This table shows the number and value of individual, company, fund and trust capital gains and small business concessions calculated by the discount, indexation or other methods together with capital losses applied for the income years 2000–01 to 2009–10 inclusive.